

NATIONAL  
INDIAN  
GAMING  
COMMISSION

AUG 17 1994

William Schumacher, President  
Flandreau Santee Sioux Tribe  
P.O. Box 283  
Flandreau, South Dakota 57028

Dear President Schumacher:

This letter responds to your request to review and approve the class II tribal gaming ordinance adopted by the Flandreau Santee Sioux Tribe (the Tribe) on August 12, 1994. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

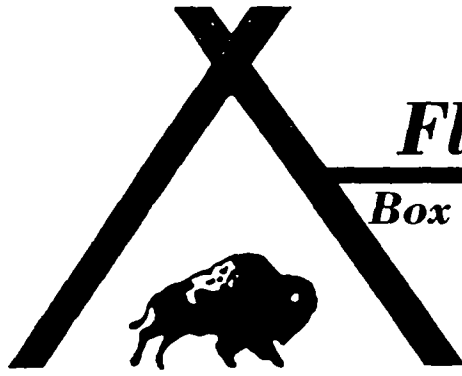
Thank you for submitting the ordinance of the Flandreau Santee Sioux Tribe for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope  
Chairman

cc: Albert Jones, Esq.



# *Flandreau Santee Sioux Tribe*

**Box 283 Flandreau, SD 57028**

**Phone 997-3891**

**Fax 997-3878**

## RESOLUTION NO. 94-46

WHEREAS, the Flandreau Santee Sioux Tribe is a federally recognized Indian tribe organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) and (25 U.S.C. Sec. 76), and a Constitution and By-Laws approved March 13, 1936 by the Secretary of the Interior and ratified by the members of the Flandreau Santee Sioux Tribe on April 4, 1936, and

WHEREAS, the Tribe, in order to establish its Tribal organization; to conserve its Tribal property; to develop its common resources; and to promote the general welfare of its people, has ordained and established a Constitution and By-Laws, and

WHEREAS, The Executive Committee of the Flandreau Santee Sioux Tribe is the governing body of the Tribe, and

WHEREAS, Article VIII, Section 1 (f) of the Constitution of the Flandreau Santee Sioux Tribe grants to the Executive Committee the power to promulgate and enforce ordinances which shall be subject to review by the Secretary of the Interior, and

WHEREAS, the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §2710 et.seq. and the regulations of the National Indian Gaming Commission (NIGC) 25 C.F.R. part 501 et.seq. requires that the Tribe conduct gaming operations on Indian lands according to the requirements of the IGRA, the regulations pursuant to 25 C.F.R. part 522 et.seq. and Tribal law, and

WHEREAS, class II gaming is defined at 25 C.F.R. part 502.3, and

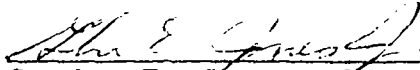
WHEREAS, the Flandreau Santee Sioux Tribe must submit an ordinance for the conduct of class II gaming pursuant to 25 C.F.R. part 522 et.seq. to the National Indian Gaming Commission.

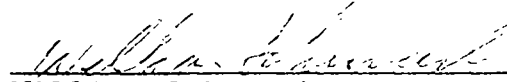
NOW THEREFORE BE IT RESOLVED, that the Flandreau Santee Sioux Tribe pursuant to its sovereign governmental authority and pursuant to its Constitution and By-Laws adopts the attached Class II Gaming Ordinance No. 94-02 for the conduct of class II gaming on

Indian lands within the Flandreau Santee Sioux Tribal Reservation, subject to approval of the National Indian Gaming Commission, Washington, D.C.

C E R T I F I C A T I O N

The foregoing Resolution ws duly enacted and adopted by the Flandreau Santee Sioux Executive Committee at which a quorum was present by 4 for, 0 against, 2 not voting., on the 12 day of August 1994.

  
Gordon E. Jones, Jr.  
Tribal Secretary

  
William Schumacher  
Tribal President

002/077

**ORIGINAL**

**FLANDREAU SANTEE SIOUX TRIBAL CLASS II  
GAMING ORDINANCE NO. 94-02**

**I. Purpose.**

The Flandreau Santee Sioux Tribe, a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Statute 984) and (25 U.S.C. Section 76) and a Constitution and By-Laws approved on March 13, 1936 by the Secretary of the Interior and ratified by the members of the Flandreau Santee Sioux Tribe on April 4, 1936, through the Executive Committee of the Tribe (hereinafter "Tribe") empowered by the Constitution and By-Laws pursuant to Article VIII, Section 1(f) to enact ordinances, hereby enacts this ordinance in order to set the terms for class II gaming operations on tribal lands.

**II. Gaming Authorized.**

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703 (7) (A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. Section 502.3 (as published in the Federal Register at 57 FR 12382-12393 April 9, 1992) is hereby authorized.

**III. Ownership of Gaming.**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

**IV. Use of Gaming Revenue.**

A. Net revenues from Class II gaming shall be used only for the following purposes: 1) to fund tribal government operations and programs; 2) to provide for the general welfare of the Tribe and its members; 3) to promote tribal economic development; donate to charitable organizations; 4) or to help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments solely upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. Section 2710 (b) (3).

**V. Audit.**

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming

Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A. above.

**VI. Protection of the Environment and Public Health and Safety.**

Class II gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

**VII. Licenses for Key Employees and Primary Management Officials.**

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II gaming enterprise operated on Indian lands:

**A. Definitions.**

For the purposes of this section, the following definitions apply:

1. KEY employee means:

(a) A person who performs one or more of the following functions:

1. bingo caller
2. counting room supervisor
3. chief of security
4. custodian of gaming supplies or cash
5. floor manager
6. pit boss
7. dealer
8. croupier
9. approver of credit, or
10. custodian of gaming devices including persons with access to cash and accounting records with such devices,

(b) if not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year, or

(c) if not otherwise included, the four most highly compensated persons in the gaming operation.

## 2. Primary Management Official Means

(a) The person having management responsibility for a management contract.

(b) Any person who has authority:

1. to hire and fire employees; or
2. to set up working policy for the gaming operation; or

(c) The chief financial officer or other person who has financial management responsibility.

### B. Application Forms.

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et. seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in

errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

a. complete a new application form that contains a Privacy Act notice; or

b. sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed in the application form for a key employee or a primary official before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, Section 1001).

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

a. complete a new application form that contains a notice regarding false statements; or

b. sign a statement that contains the notice regarding false statements.

**C. Background Investigations.**

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

a. full name, other names used (oral or written), social security number(s), birthdate, place of birth, citizenship, gender, all languages (spoken or written);

b. currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

c. the names and current addresses of at least three personal references who were acquainted with the applicant during each period of residence listed under paragraph (I) (b) of this section;

d. current business and residence telephone numbers;

e. a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

f. the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

g. for each felony for which there is an ongoing prosecution for a conviction, the charge, the name and address of the Court involved, and the date and disposition if any;

h. for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within (ten) 10 years of the date of the application, the name and address of the Court involved and the date and disposition.

i. for each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

j. the name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

k. a current photograph;

l. any other information the Tribe deems relevant; and

m. fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. Section 522.2 (h).

2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe, or its agent shall keep confidential the identity of each person interviewed in the course of the investigation.

**D. Eligibility Determination.**



The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

**E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.**

1. When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D. of this section.

2. The Tribe shall forward the report referred to in subsection F. of this section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

**F. Report to the National Indian Gaming Commission:**

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
  - a. steps taken in conducting a background investigation;
  - b. results obtained;
  - c. conclusions reached; and
  - d. the basis for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under section D of this section.
3. If a license is not issued to an applicant, the Tribe:
  - a. shall notify the National Indian Gaming Commission; and
  - b. may forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for the inclusion in the Indian Gaming Individuals Records System.
4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.
2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the thirty (30) day period under paragraph G. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming

Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

**H. License Suspension.**

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Tribe shall notify the licensee of a time and a place for a meeting on the proposed revocation of a license.
3. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

**VIII. Procedures for Resolving Disputes Between the Gaming Public and the Tribe or the Management Contractor.**

The Flandreau Santee Sioux Tribe recognizes the possibility of disputes concerning gaming activities with the public. To resolve these disputes and promote the best interest of the Royal River Casino, the Tribe shall implement the following procedures for dispute resolution between the public and the Tribe or the Management Contractor.

- A. Any person who has any dispute or disagreement that involves currency, tokens, coins, jackpot wins or any other thing of value may pursue resolution in the following order if the issue is unresolved:
  1. Submit the dispute in writing to the Manager, Royal River Casino.
  2. Submit the dispute with a copy of the Manager's decision to the FSST Gaming Commission.
  3. Submit the written dispute, with both written decisions, to the Flandreau Santee

Sioux Tribal Court, pursuant to the Tribal  
Law and Order Code.

- B. The Complainant shall submit a written dispute to the General Manager, Royal River Casino. The General Manager is hereby given the authority to resolve the dispute. A record of all proceedings, meetings or negotiation shall be preserved in written form by the General Manager. The General Manager shall file a written report detailing the resolution of any matter at this level.

Should any dispute not be resolved at level one, the General Manager shall inform the Complainant of their right to appeal the complaint to the Flandreau Santee Sioux Tribal Gaming Commission at level two. The Manager shall provide the Gaming Commission all necessary and pertinent information regarding the complaint. The Gaming Commission shall utilize Section 10.3 of the FSST Gaming Regulations to attempt to informally resolve the complaint. If there is no informal resolution of the complaint, the Gaming Commission shall proceed to a formal resolution pursuant to Section 10.5 of the Gaming Regulations.

The above two sections of the Gaming Regulations are utilized only for the dispute resolution and within this context shall not be utilized as disciplinary proceedings pursuant to Chapter 10 of the Gaming Regulations. The Gaming Commission shall have the authority to overrule any decision of the General Manager of the Royal River Casino for dispute resolution.

The Gaming Commission shall document and maintain each dispute resolution matter presented for resolution and shall notify in writing the Complainant and the General Manager of the Gaming Commission's decision on the respective dispute. The complainant may appeal to level three if dissatisfied with the resolution at level two.

The Complainant may appeal the decision of the Gaming Commission to the Flandreau Santee Sioux Tribal Court. The Complainant shall be required to follow the rules of civil procedure as established within the Flandreau Santee Sioux Tribal Law and Order Code.

**IX. Designation of Agent Per Service of Process.**

The Flandreau Santee Sioux tribal agent for service of process of any official determination,

order, or notice of violation from the National Indian Gaming Commission shall be the President of the Flandreau Santee Sioux Tribe, PO Box 283, Flandreau, SD 57028

X. Identification of Law Enforcement Agency for Fingerprints and Procedures for Criminal History Check.

The Flandreau Santee Sioux Tribe has entered into a contract with the Moody County Sheriff whereby the Moody County Sheriff will provide law enforcement duties for the Flandreau Santee Sioux Tribe within Indian country on the Flandreau Santee Sioux Reservation. The contract is negotiable and renewable on an annual basis.

Pursuant to and in addition to the Tribal Gaming Ordinance No. 89-03 and the Tribal Gaming Regulations, the following procedures shall apply for fingerprints and criminal history investigation.

- A. The Sheriff or his designated agent will be the responsible official to perform fingerprints for all persons applying for a gaming license with the Royal River Casino.
- B. The Sheriff or his designated agent will submit the following information to the Gaming Commission for the State of South Dakota for a criminal history or background investigation:
  - 1. a completed application for employment at the Royal River Casino;
  - 2. applicable fees - paid by check, money order or cashier's check;
  - 3. original fingerprint card.

XI. Criminal History/Background Information.

The Flandreau Santee Sioux Tribe entered into a Compact with the State of South Dakota pursuant to the Indian Gaming Regulatory Act. The Tribe has authorized the South Dakota State Gaming Commission to perform all background investigations on behalf of the Tribe and the Tribal Gaming Commission. The State has agreed to conduct investigations upon receipt of an executed release of information from an applicant, a completed application for employment with the tribal gaming facility and payment of applicable

fees, all as provided in the South Dakota Commission on Gaming Rules for such investigations. The State shall provide the Commission with a written report regarding each applicant within thirty (30) days of the receipt of the request and fee or as soon thereafter as practical.

The Commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who is determined suitable by the Tribal Gaming Commission according to Tribal Ordinance and by the South Dakota Gaming Commission pursuant to SDCL Ch. 42-7B and the South Dakota Gaming Commission Rules and Regulations.

Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure.

The dispute shall be determined by a three person binding Arbitration Board. One member of the Board shall be selected by the Tribal Gaming Commission, one member shall be selected by the State Gaming Commission, and one member shall be jointly selected by the State Gaming Commission and the Tribal Gaming Commission. Within thirty (30) days of the signing of this Agreement, the parties hereto shall appoint the members to the Arbitration Board for a three year term. In the event of death, resignation, or expiration of a term, new members shall be appointed on the same basis as the original members. The Arbitration Board shall determine whether the applicant is deemed suitable, taking into consideration the Ordinance and regulations adopted by the Tribal Gaming Commission and the statutes and rules adopted by the Tribal Gaming Commission and the statutes and rules adopted by the State of South Dakota. The Arbitration Board shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the arbitration decision to Federal District Court.

D. Eligibility Determination.

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the

Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

**XII. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.**

1. When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D. of this section.
2. The Tribe shall forward the report referred to in subsection F. of this section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

**XIII. License Locations.**

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where class II gaming is conducted under this Ordinance.

**XIV. Repeal.**

To the extent of inconsistency with this Ordinance, all prior gaming ordinances are hereby repealed.

DATE ADOPTED: 8-12-94

RESOLUTION NO.: 94-46